

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 853

Introduced by Vrtiska, 1; Foley, 29; Mossey, 3; Quandahl, 31

Read first time January 7, 2004

Committee: Judiciary

A BILL

- 1 FOR AN ACT relating to the Nebraska Liquor Control Act; to amend
- 2 section 53-1,121, Reissue Revised Statutes of Nebraska;
- 3 to change provisions relating to civil protective
- 4 custody; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 53-1,121, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 53-1,121. (1) City police, county sheriffs, officers of
4 the Nebraska State Patrol, and any other such law enforcement
5 officer with power to arrest for traffic violations may take a
6 person who is ~~intoxicated~~ under the influence of alcohol or illegal
7 drugs and in the judgment of the officer dangerous to himself,
8 herself, or others, or who is otherwise incapacitated, from any
9 public or quasi-public property. An officer removing ~~an~~
10 ~~intoxicated~~ such a person from public or quasi-public property
11 shall make a reasonable effort to take such ~~intoxicated~~ person to
12 his or her home or to place such person in any hospital, clinic, or
13 substance abuse alcoholism center, or with a medical doctor as may
14 be necessary to preserve life or to prevent injury. Such effort at
15 placement shall be deemed reasonable if the officer contacts those
16 facilities or doctors which have previously represented a
17 willingness to accept and treat such individuals and which
18 regularly do accept such individuals. If such efforts are
19 unsuccessful or are not feasible, the officer may then place ~~such~~
20 ~~intoxicated person~~ the person who is under the influence of alcohol
21 or illegal drugs in civil protective custody, except that (a) civil
22 protective custody shall be used only as long as is necessary to
23 preserve life or to prevent injury, and under no circumstances for
24 longer than twenty-four hours and (b) an individual who has been
25 placed in civil protective custody three or more times in the
26 previous six-month period may be held in civil protective custody
27 up to seventy-two hours.

28 (2) The placement of such person in civil protective

1 custody shall be recorded at the facility or jail to which he or
2 she is delivered and communicated to his or her family or next of
3 kin, if they can be located, or to such person designated by the
4 person taken into civil protective custody.

5 (3) The law enforcement officer who acts in compliance
6 with this section shall be deemed to be acting in the course of his
7 or her official duty and shall not be criminally or civilly liable
8 for such actions.

9 (4) The taking of an individual into civil protective
10 custody under this section shall not be considered an arrest. No
11 entry or other record shall be made to indicate that the person has
12 been arrested or charged with a crime.

13 (5) For purposes of this section:

14 (a) Public property means ~~public property shall mean~~
15 any public right-of-way, street, highway, alley, park, or other
16 ~~state, county~~ state-owned, county-owned, or municipally owned
17 property; and

18 (b) Quasi-public property means and includes ~~and~~

19 ~~(6) For the purposes of this section, quasi-public~~
20 ~~property shall mean and include~~ private or publicly owned property
21 utilized for proprietary or business uses which invites patronage
22 by the public or which invites public ingress and egress.

23 Sec. 2. Original section 53-1,121, Reissue Revised
24 Statutes of Nebraska, is repealed.